

**UNITED STATES DISTRICT COURT
FOR THE SOUTHERN DISTRICT OF TEXAS
HOUSTON DIVISION**

<p>UNITED STATES OF AMERICA, Plaintiff,</p> <p>v.</p> <p>\$20,443.00 IN US CURRENCY Defendant in rem.</p>	<p>CIVIL ACTION. 4:11-cv-4093</p>
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**CLAIMANT HARTSHORN'S SUBMISSION REGARDING RIGHT TO
JURY TRIAL IN CIVIL FORFEITURE PROCEEDING**

Pursuant to the Court's order at the motion hearing held on April 3, 2011, claimant Kevin Hartshorn ("Hartshorn") submits this memorandum on the issue of his right to a jury trial in a civil forfeiture proceeding.

The United States brought this civil *in rem* forfeiture action alleging violations of 31 U.S.C. §5316 (failure to report currency of over \$10,000 on the person to be transported out of the United States) and of 31 U.S.C. §5332(a) (knowingly concealing more than \$10,000 in currency on the person to evade reporting requirements of such currency to be transported out of the United States).

The Supplemental Rules for Admiralty or Maritime Claims and Asset Forfeiture Actions ("Supplemental Rules") apply to forfeiture actions *in rem* arising from a federal statute such as this action. *See*, Supplemental Rules for Certain Admiralty

and Maritime Claims, Rule A(1)(B); *see also*, 18 U.S.C. § 981(b)(2)(A) (providing that seizures may be made through a civil forfeiture proceeding where a complaint is filed in the United States district court and the court issues an arrest warrant *in rem* pursuant to the Supplemental Rules for Certain Admiralty and Maritime Claims); 18 U.S.C. §983 (providing general rules for civil forfeiture proceedings and citing the application of the Supplemental Rules).

Rule G of the Supplemental Rules provides the procedure for forfeitures *in rem* (as cited by the United States' in its Summons and Warrant at Docket No. 3), and provides that a party may make a demand for a jury trial pursuant to Rule 38 of the Federal Rules of Civil Procedure. *See*, Rule G(9) ("Trial is to the court unless any party demands trial by jury under Rule 38."); *see e.g.*, *civil forfeiture cases tried to a jury*, *United States v. One Boeing*, 707 Aircraft 750 F.2d 1280, 1282 (5th Cir. 1985); *United States v. \$9,041,598.68 (Nine Million Forty One Thousand, Five Hundred Ninety Eight Dollars and Sixty Eight Cents)*, 976 F.Supp. 654, 655 (S.D.Tex. 1997).

Claimant Hartshorn filed an Answer and Jury Demand pursuant to Rule 38 on February 21, 2012, at Docket No. 16, preserving his right to a jury trial.

Dated: April 6, 2012

RESPECTFULLY SUBMITTED,

/s/ John J.E. Markham, II
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CERTIFICATE OF SERVICE

I, Bridget A. Zerner, certify that on April 6, 2012, I served the foregoing document and attachments on counsel of record by electronic mail and ECF notice and served a copy on any unrepresented parties via first class mail, postage prepaid.

Dated: April 6, 2012

/s/ Bridget A. Zerner
Bridget A. Zerner